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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

St. Louis, Missouri

CERTIFICATE OF MAILING

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Kenneth Solomon, Reg. No. 31,427

In re application of:
Luthra, et al.

Serial No.: 09/587,875

Filed: June 6, 2000

For: Non-Thrombogenic and Anti-Thrombogenic Polymers

Examiner Christopher Henderson

Group Art Unit 1713

BOX DAC
Assistant Commissioner for Patents
Washington, D.C. 20231

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 C.F.R. §1.137(a), OR, IN THE ALTERNATIVE, PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. §1.137(b)

It is respectfully requested that the enclosed Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 C.F.R. §1.137(a) be considered and granted.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the Untied States Patent and Trademark Office.

The petition fee of $110.00 is enclosed. If this fee is insufficient or any other fee is required in connection with the petition, the Office is authorized to debit our deposit account 20-0823 or credit any excess thereto.

An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition under 37 C.F.R. 1.137(a) was unavoidable, is enclosed as a Statement in Support of Petition for Revival.

The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extension of time actually obtained.

If and only if such Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 C.F.R. §1.137(a) is denied, in the alternative it is respectfully requested that the enclosed Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. §1.137(b) be considered and granted. In such case, the Office is authorized to debit our deposit account 20-0823 or credit any excess thereto for any fee required in connection with the petition.

Respectfully submitted,

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence and the documents referred to as enclosed therein are being deposited with the United States Postal Service on July 31, 2002 in an envelope as 'Express Mail Post Office To Addressee' Mailing Label EL474178222US addressed to BOX DAC, Office of Petitions, Assistant Commissioner of Patents and Trademarks, Washington DC 20231.

Kenneth Solomon, Reg. #31427

In re application of:
Luthra et al.

Serial No.: 09/587,875 : Examining Attorney Christopher Henderson

Filed: June 6, 2000

For: *Non-Thrombogenic and Anti-Thrombogenic Polymers*

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

STATEMENT IN SUPPORT OF PETITION FOR REVIVAL

Applicants filed their subject divisional application on June 6, 2000, with two preliminary amendments. The first preliminary amendment, a copy of which is enclosed as attachment "A", is a copy of an amendment that had been filed in the parent application, canceled claims 1-21 and added claims 22-46. The second preliminary amendment, a copy of which is enclosed as attachment "B", canceled claims 1-42 and 45-106 (the parent application was amended to include claims up to 106). Thus, the subject application contained two claims, claims 43-44, upon filing. This is confirmed by the letter of transmittal, a copy of

which is enclosed as attachment "C", which states in section 8 (page 3 of 5) shows that a total of two claims are pending and that an amendment canceling claims 1-42 and 45-106 is enclosed. Receipt by the Patent and Trademark Office of the two preliminary amendments and the transmittal are confirmed by the return postcard, a copy of which is enclosed as attachment "D".

A third preliminary amendment, a copy of which is enclosed as attachment "E", was filed on September 15, 2000. That amendment amended claim 44 and added new claims 107-112, and states that now claims 43-44 and 107-112 are in the case. The letter of transmittal, a copy of which is enclosed as attachment "F", confirms that eight claims are pending. A copy of the return postcard, enclosed as attachment "G", confirms receipt of that amendment by the Patent and Trademark Office.

A Restriction Requirement, a copy of which is enclosed as attachment "H", was mailed on July 9, 2001, and stated that claims 1-52 are pending, claims 1-51 of which are subject to a restriction and/or election requirement. See Sections 4 and 8 of the Action. The body of the Action then states that the dependencies of claims 50 and 52 must be corrected and identifies groups of inventions for claims 22-25, 35-44 and 47-52.

Because the recitation of claims in the Action bore no relation to the claims in the case, I believed that the Action was issued in error; that the Action was intended for another application, but mistakenly bore the serial number of the subject application. Moreover, because the twenty claims identified in the body of the Action (and the 52 set forth on the summary page of the Action) bore no relation to the eight pending claims (and with only two of the numbers overlapping), a proper response to the Action was not possible. Accordingly, immediately upon receipt of the Action, I telephoned the Examiner, advised him of the apparent error, of my inability to respond to the Action, and of the fact that because the Action did not appear to be associated with the subject application, I did not believe that the Action was in fact an Action in the subject application. The Examiner informed me that he would correct the problem and that he would get back to me.

Because of the Examiner's assurances and the fact that the Action appeared so clearly to have been intended for a different application, I believed that the Action was not in fact a part of the prosecution of the subject application or was at least rescinded for that reason. The Examiner did not call again until after the six month date for a response to the Action. In that telephone conversation he inquired as to whether the case was intended to be abandoned. I have reminded him of the problem and that the Action apparently was not supposed to be directed to the subject application and he promised to address the problem. The Examiner called a few times thereafter and –until recently-- each time I reminded him of the problem and that the Action apparently was not supposed to be directed to the subject application and he promised to address the problem. Indeed, the very fact that the Examiner telephoned each time regarding the problem led me to believe that the problem was resolvable by phone. Nevertheless, shortly before the Notice of Abandonment was issued, the Examiner telephoned and during the telephone conversation it became clear for the first time that the Action was indeed intended for the subject application and that the problem arose due to a confusion with the amendments and a re-numbering of the claims by the Examiner (107-112 as 47-52) that was never communicated to the Applicants or to me. However, even that explanation does not explain the presence of claims 22-25 and 35-42 in the case. In any event, although I now, for the first time, have sufficient information to understand the Office Action and to formulate a response thereto, I have been advised that a response to the Action is no longer permissible because the application has gone abandoned for failure to respond to the Action.

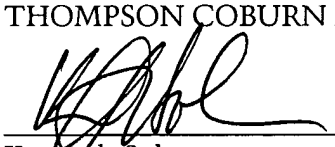
I understand that the present petition must be accompanied by a response to the outstanding restriction requirement. The period from the date of receipt of the Notice of Abandonment until the date of the subject petition is due the difficulties in communication and explaining the current situations and response necessary with an overseas client through an overseas associate during the summer vacation season. Nevertheless, this period is believed reasonable and not a delay because it is within the standard time period for responding to a restriction requirement.

In view of the foregoing, the entire delay in responding to the outstanding Office Action until the present date was unavoidable.

The undersigned being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this Petition on behalf of the applicant; he/she believes that the applicant to be the owner of the application sought to be registered; and that all statements made of his/her own knowledge are true and all statements made on information and believe are believed to be true.

Respectfully,

THOMPSON COBURN LLP



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